

Remarks

Applicants have cancelled claims 1- 48 without prejudice to their rights to pursue the subject matter of these claims in other applications. Applicants have added new claims 49 to 57 which direct the subject matter of the invention towards measuring RNA of a single gene selected from an elected group of four genes so as to provide an indication of osteoarthritis.

In response to the Restriction Requirement dated August 30, 2006, Applicants elect **Group I** and newly added claims 49 to 57 drawn to a method of detecting osteoarthritis.

As noted above, in light of the claim amendments herein, Applicant respectfully traverses the restriction requirement requiring election of a “single combination of one or more markers” on the grounds that search and examination of each of the genes of the group of four genes is not an unreasonable burden on the Examiner or the PTO search resources.

In support of this traversal, Applicant has conducted its own search of each of the four elected genes and determined the length of time required for the search and review of the results as follows:

MEOX2; RNA Accession Number NM_005924: (search and review time 2.5 h)
FKBP14; RNA Accession Number NM_017946: (search and review time: 45min.)
NTN4; RNA Accession Number NM_021229: (search and review time: 45 min.)
ARFGAP3 ; RNA Accession Number NM_014570: (search and review time: 30 min.)

Applicant further notes USPTO practice as noted in MPEP Section 803.04 which recognizes “normally ten sequences constitute a reasonable number for examination purposes”.

In the event that the Examiner is unwilling to grant the traversal, Applicant respectfully requests that a species requirement be considered as an alternative to the restriction requirement of electing a single combination of one or more markers. In the event that a species requirement is imposed by the Examiner, Applicants elect the species marker NTN4; RNA Accession Number NM_021229. Claims readable on this species include claims 49-57.

Support for the newly added claims is found through the specification and in the originally filed claims. In particular, support for all four genes is found in **Table 3O**, and in particular support for the gene mesenchyme homeobox 2 (MEOX2) is found in Table 3O at spot number 6027 and notes a p value of 0.000355737. FK506 binding protein 14 (FKBP14) is found

in Table 3O at spot 1196 and notes a p value of 0.000491846. netrin 4 (NTN4) is found in Table 3O at spot 1241 and notes a p value of 0.000163813 and ADP-ribosylation factor GTPase activating protein 3 (ARFGAP3) is found at spot 5383 and notes a p value of 0.001449119, all of which is further described in Example 24. No new matter has been added.

A petition for extension of time is attached. However, should any fees be required to ensure consideration of this response, the Commissioner is authorized to charge Deposit Account 04-1105, Reference No. 204231/2055C.

Respectfully submitted,

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Amy DeCloux
54849
Amy DeCloux for
Name: Kathleen M. Williams
Registration No.: 34,380
Customer No.: 29933
Edwards Angell Palmer & Dodge LLP
P.O. Box 55874
Boston, MA 02205
Tel: 617-239-0100